RULES AND PUBLIC POLICY COMMITTEE

DATE: November 4, 2009

CALLED TO ORDER: 5:40 p.m.

ADJOURNED: 6:15 p.m.

ATTENDANCE

ATTENDING MEMBERS   ABSENT MEMBERS
Robert Lutz, Chairman   Joanne Sanders
Bob Cockrum
Monroe Gray
Barbara Malone
Angela Mansfield
Marilyn Pfisterer
Lincoln Plowman

AGENDA

PROPOSAL NO. 303, 2009 - amends the Code to add a new section regarding the
internet posting of city and county contracts
"Amended and Postponed" until 11/17/2009   Vote: 7-0

PROPOSAL NO. 378, 2009 - supports FedEx Express operations and the City of
Indianapolis
"Tabled"   Vote: 7-0

RULES AND PUBLIC POLICY COMMITTEE

The Rules and Public Policy Committee of the City-County Council met on Wednesday, November 4, 2009. Chairman Robert Lutz called the meeting to order at 5:40 p.m. with the following members present: Bob Cockrum, Barbara Malone, Angela Mansfield and Lincoln Plowman. Monroe Gray and Marilyn Pfisterer arrived shortly thereafter. Joanne Sanders was absent. Also in attendance were Councillors William Oliver and Ed Coleman. General Counsel Robert G. Elrod represented Council staff.

Chairman Lutz asked all Councillors to introduce themselves and state which district they represent.

> PROPOSAL NO. 303, 2009 - amends the Code to add a new section regarding the internet posting of city and county contracts

Councillor Coleman stated that this proposal came as a result of calls he received about constituents not being able to get timely access to public records. He said that the proposal basically stipulates that the city will post all contracts within 90 days of their effective date on their website for easier access and transparent government. He said that since its introduction, some concerns were raised, and in response, he would like to offer an amendment (attached as Exhibit A) for consideration.

> [Clerk's note: Councillor Pfisterer arrived at 5:43 p.m.]

Councillor Cockrum asked if Corporation Counsel has reviewed the amendment and is in agreement with the wording. John Cochran, Special Counsel to the Mayor, said that Corporation Counsel is in agreement with the amendment, but they still have some questions as to whether the 60-day time limit in posting all 2008 contracts is sufficient, because it is not yet clear how many contracts that includes. He said they are comfortable with the 14-day time limit of getting new contracts into the system. He added that Corporation Counsel actually drafted the amendment.

Councillor Pfisterer asked if Corporation Counsel is able to take on this additional duty, considering their current responsibilities. Mr. Cochran said that they are able, but it may be a question of time with regard to the backlog of all contracts since January, 2008. He said that they are not concerned with the effort it will take to keep contracts current.

Councillor Mansfield said that she had some concerns with the proposal as it was introduced, but feels most of them have been addressed with this amendment. However, she added that she agrees with Corporation Counsel that the 60-day time

limit to address the already executed contracts seems short. She stated that she would like to see that changed to six months as a sufficient time.

Councillor Plowman asked Councillor Coleman if he is comfortable changing that time frame to six months. Councillor Coleman said that he is not opposed to that further amendment. Mr. Cochran said that a longer time frame would allow them to scan and redact contracts in a more thorough manner and they will better have a handle on how many contracts that will entail in the next few weeks.

Councillor Malone asked if all of the fiscal concerns about the impact of the provision has been addressed in terms of manpower, labor and equipment needs. Chairman Lutz answered that this is not yet known, but he is hoping to know that by next week. He said his intention was to hear the proposal tonight, possibly amend the proposal, and then vote on the proposal at the next Rules meeting after a fiscal impact analysis is available, as that was his concern.

Councillor Malone asked Councillor Coleman if the constituents who contacted him about difficulty in accessing public records were referring specifically to contracts or if there were other public records they were having difficulty obtaining. He said that the initial contact was with regard to contracts, and he started there, but he is looking at other records that need to be readily available. Councillor Malone asked if this includes subcontracts. Councillor Coleman stated that this only applies to direct contracts.

Councillor Cockrum moved, seconded by Councillor Plowman, to "Amend" Proposal No. 303, 2009 as described in Exhibit A.

[Clerk's note: Councillor Gray arrived at 5:54 p.m.]

Stephen Hoback, Washington Township resident, said that his first concern has been addressed with the amendment but that he still has concerns regarding using the word "contracts," as this would not include interlocal agreements. He said that interlocal cooperation agreements are not defined as contracts. While contracts are seen as an agreement, agreements are not seen as contracts, and he would like to see the wording changed to the word "agreements."

Pat Andrews, Vice President, Marion County Alliance of Neighborhood Associations (MCANA), said that the MCANA board supports this proposal without reservation. She said she would like explanation of Section 3 and to understand what information might be included in a contract that would be protected from disclosure by state law. Mr. Elrod said that the public records law cited here provides access to all public records and the statute lists 15 to 20 classes of records that are not open to public access, such as personnel information or proprietary contract information. He said there are another 15 to 20 classes of information that an agency can have exempted from that open door law. He said

that is why they are leaving it to the discretion of Corporation Counsel to identify what information may need to be redacted. Councillor Mansfield added that an example of the type of information that would be redacted or deleted could be employee social security numbers. Ms. Andrews asked for an explanation of Section 3. Mr. Elrod said that simply means that the ordinance is not in effect until January 1, 2010 or later, after passage, if the proposal is not passed by that date. Ms. Andrews asked if the 14-day posting requirement would then go into effect beginning with contracts on January 1, 2010.

Councillor Pfisterer said that the term "redacted" is not a term the public hears often, and for their benefit, a definition might be helpful. Chairman Lutz said that a simple definition might be to "remove" or "delete." Mr. Elrod said that redacting information in a document means that it is somehow covered up or unreadable, so that it is not seen by those reading such document.

Keith Robinson, President of the Indiana Coalition for Open Government in Indianapolis (ICOG), said that they applaud the efforts of this proposal, as it is a positive step forward. He said that ICOG is a non-profit citizens advocacy group to protect the rights to public access and public meetings. He said they agree with Councillor Coleman's position with respect to the proposal and recommend that contracts be posted before decided so that the public can view them and provide feedback with support or opposition.

The motion to "Amend" Proposal No. 303, 2009 as per Exhibit A carried by a vote of 7-0.

Councillor Cockrum moved, seconded by Councillor Pfisterer, to "Amend" Proposal No. 303, 2009 further by changing the words "sixty (60) days" in Section 2, to "one hundred and eighty (180) days". Councillor Plowman asked if it is clear that 180 days will be sufficient according to the Office of Corporation Counsel (OCC), since Mr. Cochran testified they did not yet have a handle on how many contracts would need to be posted in that time. Chairman Lutz said that this will actually give OCC almost eight months to get those documents ready for posting, since it is now early November, and the six-month time frame would not begin until January. The motion carried by a vote of 7-0.

Chairman Lutz said that he would still like to delay the vote on this proposal until a fiscal impact statement is available. Councillor Coleman said that he will also take the time between now and the next meeting to look into the suggestions made this evening by those who testified. Councillor Malone moved, seconded by Councillor Pfisterer, to "Postpone" Proposal No. 303, 2009 until November 17, 2009. The motion carried by a vote of 7-0.

PROPOSAL NO. 378, 2009 - supports FedEx Express operations and the City of Indianapolis

Councillor Cockrum said that this proposal was sent back to Committee by the full Council because of several concerns that the other side of this issue had not been presented. He said that he has met with both parties this evening, and there are two committees considering this language in the United States Senate. One committee has passed the measure without this language and the other committee is deeply involved in health care discussions at this time, and will probably not consider the language for several weeks. He said that since it may be a moot issue, it might be premature for this Committee to act on the matter. He said that he would instead rather table the issue until more information is forthcoming from the Senate as to whether it will even be necessary.

Councillor Cockrum moved, seconded by Councillor Pfisterer, to "Table" Proposal No. 378, 2009. The motion carried by a vote of 7-0.

Chairman Lutz asked if either of the entities in attendance would like to go ahead and make a presentation, since they came prepared to do so. Representatives of FedEx and UPS both declined to make a presentation and agreed to return when the matter will be taken up for further consideration and a vote. Councillor Oliver asked if that will take place at the November 17th meeting. Chairman Lutz said that the matter has been tabled, and he is not sure when the matter will be ready for further discussion, but will advise all parties when it is again added to the agenda.

There being no further business, and upon motion duly made, the meeting was adjourned at 6:15 p.m.

Respectfully Submitted,

Robert Lutz, Chairman

RL/ag

EXHIBIT A

MOTION TO AMEND
Proposal No. 303, 2009

Mr. Chairman:

I respectfully move to amend Proposal No. 303, 2009, as follows: new SECTIONS 1, 2 and 3, as printed below, shall be substituted for "SECTION 1" and "SECTION 2" as they appear in the Proposal.

_____
Councillor Cockrum

SECTION 1. Chapter 141, Article I, of the "Revised Code of the Consolidated City and County," regarding city and county contracts, hereby is amended by the addition of a NEW Section 141-105, to read as follows:

Sec. 141-105. Contracts to be posted on internet.

 (a) All contracts entered into by the city or county shall be made freely available to the public from the city and county's website within twenty-one (21) days of final approval of the contract.

 (b) The website where the contracts are posted shall include a searchable index feature so that users can easily find contracts based on contracting entity, vendor name, and other search criteria.

 (c) The corporation counsel shall ensure that information that is protected from disclosure by state law is appropriately redacted prior to the contract being posted online.

SECTION 2. The requirements of Sec. 141-105 shall apply to all contracts entered into by the city or county (a) from and after the effective date of this ordinance, and (b) between January 1, 2008 and the effective date of this ordinance; however, notwithstanding the timing requirement provided in Sec. 141-105, contracts in this latter category shall be posted online within sixty (60) days of the effective date of this ordinance.

SECTION 3. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14, or January 1, 2010, whichever last occurs.